THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition (M/S) No. 1386 of 2006

1. Smt. Vijai Rani W/O Vinod Kumar Goyal, R/O Roshni Cottage, Kulri Mussorie, District Dehradun.
2. Master Naman Goyal, S/O Sri Vinod Kumar Goyal, through natural guardian and father Sri Vinod Kumar Goyal, R/O Roshni Cottage, Kulri Mussorie (Distt. Dehradun).

… **Petitioners.**

Versus

1. Punjab National Bank a Body Corporate, through Sri Adish Kumar Jain, Senior Manager & Principal Officer of Branch Adhoiwala, Dehradun (Distt. Dehradun).
2. Vinod Kumar Goyal S/O Sri Ram Kumar Goyal, R/O Roshni Cottage, Kulri Mussorie (Distt. Dehradun)
3. Ram Kumar Goyal S/O Lage Sri Ajudhia Prasad, R/O Roshni Cottage, Kulri Mussorie, (Distt. Dehradun)

… **Respondents.**

Sri Siddartha Sah, learned counsel for the petitioners.
Sri Sharad Sharma, learned counsel for the Bank- respondent no.1.

Dated September 19, 2006.

Hon'ble B.S. Verma, J.

The petitioner has filed the present writ petition for issue a writ, order or direction in the nature of certiorari to quash the order dated 4-9-2006 passed by the Additional District Judge V F.T.C. Dehradun in Original Suit No. 359 of 2002, Punjab National Bank Vs. Sri Vinod Kumar Goyal and others, whereby the amendment application of the plaintiff-respondent no.1 was allowed and the petitioners have been arrayed as defendants.

The learned counsel for the petitioners has submitted that the learned Court below while deciding the amendment application did not consider that the petitioners were not necessary party to the suit.

I have considered the submissions made by the learned counsel for the parties and perused the material on record.

Admittedly, no written statement has been filed on behalf of the newly arrayed defendants. The petitioners may file written statement and can raise the plea before the trial court that they are not necessary party to the suit. If the plea is raised in the written statement, then in that case, the learned trial court shall frame an issue regarding mis-joinder of party as per pleadings and shall decide the same as preliminary issue.

With the above direction, the writ petition is disposed of finally.

(B.S. Verma, J.)

19-09-2006.
RCP